

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

PLAINTIFF'S MOTION FOR SANCTIONS

Plaintiff CitiMortgage, Inc. (“CMI”) hereby moves for sanctions against Defendant Chicago Bancorp, Inc. (“Chicago Bancorp”), pursuant to Federal Rule of Civil Procedure 37 and this Court’s inherent power to impose sanctions for discovery abuses. In support of this motion, CMI states as follows:

1. On March 21, 2013, the Court entered an Order compelling Chicago Bancorp to provide certain discovery, including certain Rule 30(b)(6) deposition testimony.
2. On April 29, 2013, Chicago Bancorp produced its president and founder, Stephen Calk, to testify. Mr. Calk was not suitably prepared to testify, as he made clear in his deposition. He admitted he did nothing to prepare for his deposition, failed to talk to individuals who were knowledgeable, and knew nothing about many of the matters CMI inquired into.
3. For these reasons and for the reasons further set forth in CMI's Memorandum and exhibit thereto filed herewith, which are incorporated herein, CMI requests that Chicago Bancorp be sanctioned for disobeying the Court's March 21, 2013 Order.

WHEREFORE, CMI respectfully requests an Order for discovery sanctions against Defendants, including any one or all of the following sanctions:

a. Issuing an Order holding Chicago Bancorp in contempt of Court;

b. Issuing an Order again requiring Chicago Bancorp to produce, at the offices of CMI's counsel in St. Louis, Missouri, a suitably prepared witness to testify to the topics permitted under the Court's March 21, 2013 Order and, if Chicago Bancorp again fails to produce such a witness, striking Chicago Bancorp's affirmative defense alleging CMI's breach of the implied covenant of good faith and fair dealing;

c. Issuing an Order granting CMI leave to file supplemental papers in opposition to Chicago Bancorp's motion for partial summary judgment and in support of CMI's motion for summary judgment based on further information provided in compliance with the Court's Order;

d. Issuing an Order awarding CMI its reasonable attorneys' fees and costs associated with taking the deposition of Stephen Calk on April 29, 2013 and in pursuing the present motion for sanctions; and

e. Issuing an Order granting CMI further relief that the Court deems just and proper.

May 10, 2013

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Counsel for Plaintiff CitiMortgage, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 10th day of May, 2013, a copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which I understand will send notification of such filing to the following:

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